

Appln. No.: 10/087,320
Amendment Dated March 22, 2004
Reply to Office Action of October 21, 2003

BSI-030US7

Remarks/Arguments:

The pending claims are 10-28.

Introduction

The invention claimed herein is a stent (claims 10-21) and the method of using such a stent (claims 22-28), characterized by a tubular construction, comprising a plurality of adjacent hoops that are aligned along the tubular axis. Each hoop comprises a series of elongate elements which meet one another and form vertices. At least some of the vertices axially abut and are connected to oppositely pointed vertices of an adjacent hoop. Each hoop is separate and distinct from the other hoops. There is also a graft that closes the openings of the stent structure. Claim 17 has been indicated to be directed to patentable subject matter.

A. Summary of Pending Rejections

In the Office Action of October 21, 2003, claims 10-11, 13-15, 16, and 18-21 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,360,443 to Barone et al. in view of U.S. Patent No. 5,035,706 to Gianturco. Claim 12 was rejected under 35 U.S.C. § 103(a) as unpatentable over Barone in view of Gianturco and further in view of U.S. Patent No. 4,580,568 to Gianturco. Claims 24 and 27 were rejected under 35 U.S.C. § 103(a) as unpatentable over Barone and Gianturco '706 in view of Gianturco '568 and further in view of Dotter. Figure 6 of Gianturco '706 was specifically cited and relied upon.

B. The January 21, 2004 Response

In Applicant's January 21, 2004 Response, incorporated herein by reference, it was pointed out that Figure 6 of Gianturco does not disclose or suggest the stent structure recited in claim 10 for a number of reasons. Most particularly, Gianturco's Figure 6 does not disclose or suggest,

"pairs of said elongate elements meeting one another and forming vertices axially pointing in a direction along the axis of the stent, wherein at least some of said vertices axially abut and are individually connected to oppositely pointed vertices of elongate elements of an adjacent hoop,"

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as required by Applicant's claim 10 upon which other claims are dependent. Rather, it was pointed out that the "vertices" identified in the reproduction of Gianturco Figure 6 in the Final Rejection are not truly "vertices" but only those parts of adjacent elongate elements forming eyes at the right of Gianturco skirt 16".

C. The February 27, 2004 Advisory Action

The February 27, 2004 Advisory Action apparently found Applicant's January 21, 2004 response non-persuasive. While acknowledging the relevant part of applicant's claim 10 (namely the passage quoted above), the February 27, 2004 Advisory Action speculated that:

"Because one of ordinary skill in the art would recognize that at least at the right end of hoop/segment 16', pairs of elongate elements of hoop/segment 16' form vertices, and at least some of these vertices axially abut to the vertices formed by the elongate elements of adjacent hoop/segment 16", especially when the stent is in a collapsed/compressed/crimped condition."

Responsive thereto, Applicant notes that the left ends of elongate elements of "skirt 16"" in Gianturco '706 Figure 6 do not form vertices. Instead, they form circular eyes. One should not be confused by the image-enlarged version of Gianturco's Figure 6 in the final rejection which is a two dimensional representation of a three dimensional object.

There is no disclosure or suggestion in Gianturco that the left ends of elongate elements of "skirt 16", " at the point where they begin to form the eyes, ever touch so as to form vertices.

Even when the stent in Gianturco Figure 6 is collapsed or compressed, the left ends of elongate elements 16", at the point where they begin to form the eyes, presumably become parallel and thus do not have the relative angular relationship necessary to form vertices.

Accordingly, Figure 6 of Gianturco does not disclose or suggest

pairs of said elongate elements meeting one another and forming vertices axially pointing in a direction along the axis of the stent, wherein at least some of said vertices axially abut. (emphasis added)

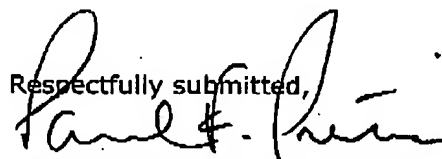
Appln. No.: 10/087,320
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BSI-030US7

Consequently, Gianturco does not disclose or suggest the invention recited in claim 10 or the invention recited in claim 22 which incorporates claim 10. All other claims are dependent on these claims and all other claims should therefore be allowable.

E. Summary

For all of the foregoing reasons, applicant requests reconsideration of the final rejection and contends that all pending claims are in condition for allowance and early notification thereof is respectfully requested. The Examiner is requested to call one of applicant's undersigned attorneys if any question remains or if it appears that some further amendment is necessary for allowance.

Respectfully submitted,


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March 22, 2004
Patricia C. Bocella

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